THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7975 of 2006

Dated: 07.09.2006

Between:

Md. Sabir Ali, S/o Mahaboob Ali, Driver, R/o 4-2-61, Panje Sha, Old Boiwada, Nalgonda, Nalgonda District.

.... PETITIONER

AND

The Divisional Manager, APSRTC, Suryapet Division, Suryapet, Nalgonda District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7975 of 2006

Order:

The petitioner is working as a Driver in the respondent-APSRTC. Disciplinary proceedings were initiated against him, alleging that while he was coming from Mumbai to Narketpally on 13.12.1996 with vehicle No. AP 10Z 1048 he left his duties without intimation to the on duty Station Manager at Imlibun Bus Station, Hyderabad, and that he was carrying 4 pet bottles of prohibited B.P. Whiskey and 7 pet bottles of prohibited O.T. whiskey in Rexene bag and traveling in Bus No. AP 10Z 727 of Nalgonda Depot on the same day. On the basis of the report submitted by the enquiry officer, the impugned final order-cum-show cause notice, dated 20.12.1997 was issued. In this, the punishment of stoppage of annual increment, for a period of two years, with cumulative effect, was straight away imposed, and explanation was sought from the petitioner, as to why the period of suspension shall not be treated, as not on duty. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority, which was rejected. Hence, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that respondent No.2, without furnishing copy of enquiry report and without affording any opportunity of hearing to the petitioner, straight away issued the impugned proceedings imposing punishment of deferment of annual increment for a period of two years with cumulative effect and calling upon the petitioner to show cause as to why the suspension period should not be treated as not on duty. He further submitted that the issue raised in this writ petition is squarely covered by the orders of this Court

in W.P. No. 18299 of 2005, dated 05.09.2005. Learned Standing Counsel for the respondents-Corporation admitted the same. He, however, opposed the relief contending that after considering the entire material on record, the impugned order was passed, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The issue raised in the present writ petition is squarely covered by the orders of this Court in W.P. 18299 of 2005, dated 05.09.2005. The operative portion of the said order, reads as under:

> *"Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.*
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> *The writ petition is accordingly disposed of. There shall be no order as to costs."*

Hence, following the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005, the present writ petition is also disposed of with the following direction.

The impugned order dated 20.12.1997, passed by respondent No.2, imposing punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 07.09.2006
Nsr/Ksr